STATEMENT
OF
SENATOR DANIEL K. INOUYE
VICE CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
BEFORE THE
OCTOBER 29, 2003 HEARING
ON
S. 1770
THE INDIAN MONEY ACCOUNT CLAIMS
SATISFACTION ACT OF 2003

A few days ago, the members of the conference on the Interior appropriations bill agreed to a House proposal that we are told is of questionable constitutionality.

The relevant language will prevent the provisions of the American Indian Trust Fund Management Reform Act, the provisions of any other statute, or any principle of common law, from being construed or applied to require the Department of the Interior to commence or continue the conduct of an historical accounting of individual Indian money accounts until the earlier of the following shall have occurred:

(1) the Congress acts to amend the American Indian Trust Fund Management Reform Act to, and I quote, "delineate the specific historical accounting obligations of the Department of the Interior with respect to the Individual Indian Money Trust"; or

(2) December 31, 2004.

Since that time, my office has been flooded with calls, faxes, and E-mails

expressing the concerns of Indian country that hundreds of thousands of Indian people have been denied their rights to seek an accounting of the funds that are held in trust for their benefit by the United States.

They ask me, and undoubtedly they are also asking other Senators who serve on this Committee, whether any other group of Americans would be singled out in this manner for such treatment.

Sadly, I believe we all know the answer to that question.

However, today we embark on a new path that will hopefully lead us away from one of the sorriest episodes in my tenure of service in the Senate to a day when those who have been denied their rights will have their rights vindicated.

Those of us who have joined the Chairman in co-sponsoring this measure know that it is just a starting point, and that is why we are having this hearing today – so that we may call upon the wisdom of those who would be affected by this legislation.

On April 8th of this year, Chairman Campbell and I wrote to the parties to the Cobell v. Norton class action lawsuit to explore their interest in settlement of the litigation.

Both parties replied that they were amenable to settlement negotiations, and thereafter, there was some discussion of mediation.

Before we dismiss that idea, I would like to make one small suggestion.

Often, when mediation is discussed, it usually entails an effort to bring the parties to agreement over a monetary figure that would resolve their differences.

My suggestion would be that we keep the concept of mediation on the table as we consider this bill – only rather than have the parties enter into mediation over money – we call upon the parties to enter into mediation as to which methodology or series of methodologies should be applied to the accounts that will bridge the gap that has been brought about through the loss of critical information commonly considered necessary for a full accounting.

Then, as the parties have agreed they are capable of doing – that is coming to agreement – by the time the IMACS Task Force is constituted, there will be one or more methodologies that have been blessed by the parties to the litigation, and that the Task Force can apply to each individual account if an account holder elects to pursue that course of action.

Most importantly, I believe it is incumbent upon us to act – to act deliberately but with speed, so that this national nightmare may be brought to a close, and the First Americans of this land may have access to the monies that are rightfully theirs.